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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,324	10/10/2003	William Stuchlik	ALTO 4335.3	9423
321	7590	12/20/2005	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/684,324

Applicant(s)

STUCHLIK ET AL.

Examiner

Terrence R. Till

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                                                                            |                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/03</u> . | 6) <input type="checkbox"/> Other: ____                                                |

## **DETAILED ACTION**

### ***Reissue Applications***

1. The amendment filed 10/10/03 proposes amendments to the specification and claims that do not comply with 37 CFR 1.173(c), which sets forth the manner of making amendments in reissue applications. Applicant is reminded that amendments to the claims, both original and new claims, must be explained and shown where support for such claim amendments is.
2. The declaration does not meet the requirements of 1.175(a)(1) in that no appropriate 35 USC 251 error has been identified by applicants. The two errors cited in the declaration (the citation of prior art and the addition of language showing that the parent application claims priority to a provisional application) cannot be relied upon for the basis of a reissue. Also see MPEP 1414.
3. Claims 1-38 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

### ***Specification***

4. The disclosure is objected to because of the following informalities: In the amendments to the specification filed on 10/10/03, on page 21, line 16 to page 22, line 4, applicant wishes to delete everything enclosed within those brackets. However, on page 21, line 29 applicant has also bracketed "traveling". So essentially, there are brackets inside of brackets.

Appropriate correction is required.

Art Unit: 1744

5. Applicant is reminded that any amendment is with respect to the original patent; not any previously filed amendment.

***Claim Objections***

6. Claim 35 is objected to because of the following informalities: In claim 35, “the outer tube” lacks antecedent basis- but the scope of the claim is understood. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by WO publication to Briscoe ‘737.
9. The publication to Briscoe discloses an apparatus for use by an operator on a surface comprising: a vehicle (figure 3) adapted to move across the surface; a head assembly 8,27 on the vehicle for treating the surface; a support 14 on the vehicle connected to the head assembly; an actuator 10 on the vehicle for raising and lowering the support and the head assembly; a resiliently compressible member 2 interposed between the support and the head assembly; a sensor 20 for sensing when the head assembly is lowered to a position corresponding to contact of the head assembly with the surface, and for generating a signal in response thereto; and a control 31 responsive to user input 24 and the sensor for controlling the actuator to drive the

Art Unit: 1744

support down to lower the head assembly until said signal is received and thereafter to drive the support down an additional distance to compress the compressible member an amount corresponding to said user input.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1744

13. Claims 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burgoon '567 in view of Briscoe (WO '737).

14. The patent to Burgoon discloses an apparatus for use by an operator on a surface comprising: a vehicle 22 adapted to move across the surface; a head assembly 44 on the vehicle for treating the surface; a support, or nut, 200 connected to the head assembly; an actuator on the vehicle comprising a screw 198 in threaded engagement with the support, and a motor 186 for rotating the screw to raise and lower the support and the head assembly connected thereto; a spring 210 co-axial with the screw interposed between the support and the head assembly and a connector assembly 176,202,204 connecting the head assembly to the support. Burgoon does not disclose of any control device to control the pressure, or distance for the head with respect to the surface. The publication to Briscoe discloses a control 31 responsive to user input 24 for controlling the actuator to lower the support 14 until the head assembly is in contact with the surface and the spring is compressed a preset amount corresponding to the user input. It would have been obvious to a person skilled in the art at the time the invention was made to provide the device of Burgoon with a control responsive to a user input in view of the teaching of Briscoe so that a user could control and adjust the pressure/distance of the head assembly with respect to the floor, thus not damaging the floor and yet still cleaning it effectively.

***Allowable Subject Matter***

15. Claims 1-27, 29, 30, 32, 33 and 35-38 are free of the prior art.

16. With respect to claims 1, 7, 9, 11, 12, 18 and 19, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a sensor detecting a

Art Unit: 1744

distance between the support and the head assembly and a position control, responsive to the input from an operator, indicating a desired position of the head assembly relative to the support.

With respect to claim 15, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a detector providing a count corresponding to a position of the support relative to the actuator; a position control, responsive to input from the operator, indicating a desired position of the head assembly relative to the support and a comparator for comparing the count to the additional preset amount, said driving circuit being responsive to comparator to lower the support below the repeatable position the additional preset amount as indicated by the position control. With respect to claim 23, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a position control responsive to operator input for indicating a repeatable position of the head assembly relative to the support or a repeatable range of positions of the head assembly relative to the position or said repeatable range of positions indicating a distance or range of distances, respectively, between the head assembly and the support; and which is independent of the brush length or stiffness. With respect to claim 24, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a sensor for sensing a repeatable position of the support; and a control responsive to user input and the sensor for controlling the actuator to drive the support downward from said repeatable position an additional distance corresponding to said user input to compress said compressible member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1744

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


*Conclusion*

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Erko, Knutson and Kaczmarz et al. were cited in the patent and show adjustable head assemblies. The patents to Field et al., Nagayama et al., Meili, Takahashi et al., Kasper et al. and Field all disclose brush control arrangements for floor cleaning devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sun U. Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Terrence R. Till  
Primary Examiner  
Art Unit 1744